

By Ken Narbrough

H.B. No. 893

A BILL TO BE ENTITLED

AN ACT

relating to polygraph tests administered to employees of a sheriff's department in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 157.905, Local Government Code, is amended to read as follows:

Sec. 157.905. POLYGRAPH EXAMINATION OF EMPLOYEES [~~DEPUTY SHERIFF~~] IN CERTAIN SHERIFF'S DEPARTMENTS. (a) This section applies only to an employee of [~~a person appointed as a deputy sheriff in~~] a sheriff's department in a county with a population of 2.8 million or more.

(b) Except as provided by Subsection (c), an employee [~~herein a deputy sheriff~~] may not be suspended, discharged, or subjected to any other form of employment discrimination or adverse employment action because the employee [~~deputy sheriff~~] refuses to take a polygraph examination or participate in an interview or other proceeding that is preparatory to taking a polygraph examination.

(c) An employee [~~Discipline may be given to a deputy sheriff~~] who refuses to take a polygraph examination or participate in an interview or other proceeding that is preparatory to taking a polygraph examination may be disciplined if:

(1) the employee [~~such deputy sheriff~~] is the subject of a complaint; and

1           (2) the complainant [~~against-such-deputy-sheriff~~] has,  
2     in the course of the department's investigation of the complaint,  
3     previously taken and successfully passed a polygraph examination.

4           (d) A polygraph examiner may not conduct a polygraph  
5     examination under this section if the examiner knows or has reason  
6     to know that:

7           (1) the employee to be examined has been ordered by an  
8     investigator or supervisor or by the polygraph examiner to take the  
9     polygraph examination and, if not for that fact, the employee would  
10    refuse the polygraph examination; and

11          (2) either the employee to be examined is not the  
12    subject of a complaint or the complainant has not taken and passed  
13    a polygraph examination.

14          (e) A person passes a polygraph examination if the examiner  
15    determines that no deception is indicated by the examination.

16          (f) The results of a polygraph examination may not be used  
17    in any proceeding to discipline or discharge an employee if the  
18    examination was not conducted in accordance with this section.

19          (g) The Polygraph Examiners Board shall revoke the license  
20    of an examiner who fails to comply with Subsection (d).

21           SECTION 2. Section 19, Polygraph Examiners Act (Article  
22    4413(29cc), Vernon's Texas Civil Statutes), is amended to read as  
23    follows:

24           Sec. 19. REFUSAL, PROBATION, REPRIMAND, SUSPENSION,  
25    REVOCATION--GROUNDS. The board shall refuse to issue a license,  
26    shall revoke or suspend a license, shall reprimand a licensee, or  
27    may probate a license suspension on any one or more of the

1 following grounds:

2 (1) for failing to inform a subject to be examined as  
3 to the nature of the examination;

4 (2) for failing to inform a subject to be examined  
5 that his participation in the examination is voluntary;

6 (3) material misstatement in the application for  
7 original license or in the application for any renewal license  
8 under this Act;

9 (4) wilful disregard or violation of this Act or of  
10 any regulation or rule issued pursuant thereto, including, but not  
11 limited to, wilfully making a false report concerning an  
12 examination for polygraph examination purposes;

13 (5) if the holder of any license has been adjudged  
14 guilty of the commission of a felony or a misdemeanor involving  
15 moral turpitude;

16 (6) making any wilful misrepresentation or false  
17 promises or causing to be printed any false or misleading  
18 advertisement for the purpose of directly or indirectly obtaining  
19 business or trainees;

20 (7) having demonstrated unworthiness or incompetency  
21 to act as a polygraph examiner as defined by this Act;

22 (8) allowing one's license under this Act to be used  
23 by any unlicensed person in violation of the provisions of this  
24 Act;

25 (9) wilfully aiding or abetting another in the  
26 violation of this Act or any regulation or rule issued pursuant  
27 thereto;

1           (10) where the license holder has been adjudged as a  
2 habitual drunkard or mentally incompetent as provided in the  
3 Probate Code;

4           (11) failing, within a reasonable time, to provide  
5 information requested by the secretary as the result of a formal  
6 complaint to the board which would indicate a violation of this  
7 Act;

8           (12) failing to inform the subject of the results of  
9 the examination if so requested;

10           (13) violating Subsection (a) of Section 19A of this  
11 Act relating to the confidentiality of information acquired from an  
12 examination; [or]

13           (14) violating Section 51.151, Family Code, relating  
14 to the examination of a child taken into custody; or

15           (15) violating Section 157.905(d), Local Government  
16 Code, relating to the examination of an employee of a sheriff's  
17 department.

18           SECTION 3. This Act takes effect September 1, 1995, and  
19 applies to a polygraph examination conducted on or after that date.  
20 A polygraph examination conducted before the effective date of this  
21 Act is governed by the law in effect on the date the examination  
22 was conducted, and the former law is continued in effect for that  
23 purpose.

24           SECTION 4. The importance of this legislation and the  
25 crowded condition of the calendars in both houses create an  
26 emergency and an imperative public necessity that the  
27 constitutional rule requiring bills to be read on three several

1      days in each house be suspended, and this rule is hereby suspended.

## COAUTHOR AUTHORIZATION-74TH LEGISLATURE

(please request your coauthors to sign this form  
in lieu of the front or the back of the original bill)

For chief clerk use only  
Bill or Resolution Number: HB 893

Ken Varbrough  
signature of primary author

Rep. Ken Varbrough  
printed name of primary author

1-30-95  
Date

PERMISSION TO SIGN HB 893 HAS BEEN GIVEN TO (check only one of the following):  
(bill or resolution #)

☒ ALL REPRESENTATIVES

☐ THE FOLLOWING REPRESENTATIVE(S): \_\_\_\_\_

I authorize the Chief Clerk to include my name as a coauthor of the legislation indicated above:

<u>A2120 Alexander</u>	<u>          </u> Date	<u>A2115 Allen</u>	<u>          </u> Date	<u>A2125 Alonzo</u>	<u>          </u> Date
<u>A2105 Alvarado</u>	<u>          </u> Date	<u>A2135 Averitt</u>	<u>          </u> Date	<u>A2160 Bailey</u>	<u>          </u> Date
<u>A2200 Berlanga</u>	<u>          </u> Date	<u>A2240 Black</u>	<u>          </u> Date	<u>A2270 Bomer</u>	<u>          </u> Date
<u>A2275 Bosse</u>	<u>          </u> Date	<u>A2265 Brady</u>	<u>          </u> Date	<u>A2260 Brimer</u>	<u>          </u> Date
<u>A2405 Carona</u>	<u>          </u> Date	<u>A2400 Carter</u>	<u>          </u> Date	<u>A2480 Chisum</u>	<u>          </u> Date
<u>A2530 Clemons</u>	<u>          </u> Date	<u>A2435 Coleman</u>	<u>          </u> Date	<u>A2575 Combs</u>	<u>          </u> Date
<u>A2580 Conley</u>	<u>          </u> Date	<u>A2570 Cook</u>	<u>          </u> Date	<u>A2595 Corte</u>	<u>          </u> Date
<u>A2600 Counts</u>	<u>          </u> Date	<u>A2605 Crabb</u>	<u>          </u> Date	<u>A2610 Craddick</u>	<u>          </u> Date
<u>A2645 Cuellar, Henry</u>	<u>          </u> Date	<u>A2646 Cuellar, Renato</u>	<u>          </u> Date	<u>A2635 Culberson</u>	<u>          </u> Date
<u>A2670 Danburg</u>	<u>          </u> Date	<u>A2675 Davila</u>	<u>          </u> Date	<u>A2625 Davis</u>	<u>          </u> Date
<u>A2630 De La Garza</u>	<u>          </u> Date	<u>A2685 Dear</u>	<u>          </u> Date	<u>A2680 Delisi</u>	<u>          </u> Date
<u>A3385 Denny</u>	<u>          </u> Date	<u>A2705 Driver</u>	<u>          </u> Date	<u>A2665 Dukes</u>	<u>          </u> Date
<u>A2655 Duncan</u>	<u>          </u> Date	<u>A2650 Dutton</u>	<u>          </u> Date	<u>A2770 Edwards</u>	<u>          </u> Date
<u>A2760 Ehrhardt</u>	<u>          </u> Date	<u>A2775 Eiland</u>	<u>          </u> Date	<u>A2785 Elkins</u>	<u>          </u> Date
<u>A2810 Farrar</u>	<u>          </u> Date	<u>A2830 Finnell</u>	<u>          </u> Date	<u>A2920 Gallego</u>	<u>          </u> Date
<u>A2935 Giddings</u>	<u>          </u> Date	<u>A2880 Glaze</u>	<u>          </u> Date	<u>A2985 Goodman</u>	<u>          </u> Date
<u>A2990 Goolsby</u>	<u>          </u> Date	<u>A3005 Gray</u>	<u>          </u> Date	<u>A3010 Greenberg</u>	<u>          </u> Date
<u>A3020 Grusendorf</u>	<u>          </u> Date	<u>A3030 Gutierrez</u>	<u>          </u> Date	<u>A3035 Haggerty</u>	<u>          </u> Date
<u>A2695 Hamric</u>	<u>          </u> Date	<u>A3120 Harris</u>	<u>          </u> Date	<u>A3170 Hartnett</u>	<u>          </u> Date
<u>A3345 Hawley</u>	<u>          </u> Date	<u>A3180 Heflin</u>	<u>          </u> Date	<u>A3230 Hernandez</u>	<u>          </u> Date
<u>A3240 Hightower</u>	<u>          </u> Date	<u>A3310 Hilbert</u>	<u>          </u> Date	<u>A3250 Hilderbran</u>	<u>          </u> Date

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A3275 Hill	Date	A3285 Hirschi	Date	A3305 Hochberg	Date
A3295 Holzheuser	Date	A3300 Horn	Date	A3315 Howard	Date
A3350 Hudson	Date	A3355 Hunter, Bob	Date	A3365 Hunter, Todd	Date
A3380 Jackson	Date	A3415 Janek	Date	A3395 Johnson	Date
A3405 Jones, Delwin	Date	A3400 Jones, Jesse	Date	A3440 Junell	Date
A3460 Kamel	Date	A3465 King	Date	A3485 Krusee	Date
A3490 Kubiak	Date	A3450 Kuempel	Date	A3510 Laney	Date
A3605 Lewis, Glenn	Date	A3600 Lewis, Ron		A3615 Longoria	Date
A3620 Luna	Date	A3715 Madden	Date	A3750 Marchant	Date
A2700 Maxey	Date	A3665 McCall	Date	A3670 McCoulskey	Date
A3660 McDonald	Date	A3850 Moffat	Date	A3860 Moreno	Date
A3865 Mowery	Date	A3855 Munoz	Date	A3885 Naishtat	Date
A3895 Nixon	Date	A3875 Oakley	Date	A3990 Ogden	Date
A3880 Oliveira	Date	A4020 Park	Date	A4070 Patterson	Date
A4180 Pickett	Date	A4185 Pitts	Date	A4110 Place	Date
A4190 Price	Date	A4200 Puente	Date	A4230 Rabuck	Date
A4210 Ramsay	Date	A4240 Rangel	Date	A4235 Raymond	Date
A4236 Reyna	Date	A4260 Rhodes	Date	A4315 Rodriguez	Date
A4325 Romo	Date	A4305 Rusling	Date	A4370 Sadler	Date
A4380 Saunders	Date	A4425 Seidlits	Date	A4460 Serna	Date
A4435 Shields	Date	A4445 Siebert	Date	A4530 Smithee	Date
A4550 Solis	Date	A4505 Solomons	Date	A4510 Stiles	Date
A4570 Swinford	Date	A4585 Talton	Date	A4605 Telford	Date
A4630 Thompson	Date	A4635 Tillery	Date	A4640 Torres	Date
A2730 Turner, Bob	Date	A4685 Turner, Sylvester	Date	A4690 Uher	Date
A4720 Van de Putte	Date	A4990 Walker	Date	A4995 West	Date
A5010 Williamson	Date	A4970 Willis	Date	A5000 Wilson	Date
A5015 Wohlgemuth	Date	A4980 Wolens	Date	A5005 Woolley	Date
A5025 Yarbrough	Date	A5030 Yost	Date	A5040 Zbranek	Date

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A BILL TO BE ENTITLED  
AN ACT

By

Ken Macbrough

Relating to polygraph tests administered to employees of a sheriff's department in certain counties.

JAN 30 1995

Filed with the Chief Clerk

FEB 2 1995

Read first time and referred to Committee on

County Affairs

Reported favorably (as amended)  
(as substituted)

Sent to Committee on (Calendars)  
(Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)  
by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Engrossed

Sent to Senate

\_\_\_\_\_  
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

\_\_\_\_\_  
Received from the House

\_\_\_\_\_  
Read and referred to Committee on \_\_\_\_\_

\_\_\_\_\_  
Reported favorably \_\_\_\_\_

\_\_\_\_\_  
Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

\_\_\_\_\_  
Ordered not printed

\_\_\_\_\_  
Laid before the Senate

\_\_\_\_\_  
Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

\_\_\_\_\_  
Read second time, \_\_\_\_\_, and passed to third reading by (unanimous consent)  
(a viva voce vote)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

\_\_\_\_\_  
Senate and Constitutional 3 Day Rules suspended by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays

\_\_\_\_\_  
Read third time, \_\_\_\_\_, and passed by (a viva voce vote)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

\_\_\_\_\_  
Returned to the House

\_\_\_\_\_  
SECRETARY OF THE SENATE

OTHER SENATE ACTION:



\_\_\_\_\_ Returned from the Senate (as substituted)  
(with amendments)

\_\_\_\_\_ House concurred in Senate amendments by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ House refused to concur in Senate amendments and requested the appointment of a conference committee  
by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ House conferees appointed: \_\_\_\_\_, Chair; \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ Senate granted House request. Senate conferees appointed: \_\_\_\_\_, Chair;  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ Conference committee report adopted (rejected) by the House by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays)